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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,511	04/01/2004	Huw Edward Oliver	300203615-4	1299

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EXAMINER
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CHERY, DADY

ART UNIT	PAPER NUMBER
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2461

NOTIFICATION DATE	DELIVERY MODE
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08/18/2010

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/815,511	<b>Applicant(s)</b> OLIVER ET AL.	
	<b>Examiner</b> DADY CHERY	<b>Art Unit</b> 2461	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 11-18 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-4 and 11-18 and 21-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 15<sup>th</sup> 2010 has been entered.

### ***Response to Amendment***

This communication is responsive to the amendment filed on June 15<sup>th</sup> 2010.

Claims 1, 11, 16, and 17 have been amended.

Claims 5-10, 19, 20 and 25 -26 have cancelled.

No claims have been added.

Claims 1-4, 11-18 and 21-24 are now pending.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1,11,16 and 17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For example claims 1, 11, 16 and 17 recite the limitations "said resource of said first computer entity is not being used by a service

application at a higher level layer than said peer to peer protocol.” The specification does provide a clear definition for the above limitation. Furthermore, the claimed invention does not written in clear a concise manner for anyone having skill in the art to understand the instant invention. Therefore, appropriate correction is required.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1- 3 and 11- 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yeager et al. (US Application 2003/0055894, hereinafter Yeager) in view of Pabla et al (US Patent 7,127,613, hereinafter Pabla).

**Regarding claims 1 and 16**, Yeager discloses a method performed by a first computer entity **(Figs. 1A and 1B)**:

operating a peer to peer protocol for enabling said first computer **(104A)** entity to utilize a resource of a second computer **(104B)** entity of in a peer to peer network **(106)**, and for enabling said second computer entity to utilize a resource of said first computer entity in said peer to peer network **(Page 16, [0212], page 17, [0214], which recites a peer includes a peer-to-peer application layer 150 that enables resources sharing between peer entities)**; and operating a process for managing said second computer entity **(Page 15, [0203], which recites peer monitoring 128 operates process for managing functions of the peer)**, wherein said process utilizes said resource of said first computer entity **(Page 17, [0219] and page 21, [0255], which recites a peer utilizes resources of other peers )**

Yeager does not explicitly discloses the process is invoked as a background activity to manage said second computer entity only when said resource of said first computer entity is not being used a service application at a higher layer than said peer to peer protocol .

However, Pabla teaches the process is invoked as a background activity to manage said second computer entity only when said resource of said first computer entity is not being used a service application at a higher layer than said peer to peer protocol **(fig. 13 and fig. 20, Col. 20, lines 44 – 63, which recites the sharing process is invoke for resources at layer level 212 and 214, but does not used for higher level such as 220).**

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Pabla with the teaching of Yeager by using the above features such as the process is invoked as a background activity to manage said second computer entity only when said resource of said first computer entity is not being used a service application at a higher layer than said peer to peer protocol for the purpose of providing secure exchange of messages between peers in peer groups **(Abstract).**

**Regarding claim 2**, Yeager discloses said process comprises: determining a policy by which said first computer entity will interact with said second computer entity **(Page 19, [0238]).**

**Regarding claim 3**, Yeager discloses said process comprises: adopting a policy towards said second computer entity wherein said policy is selected from a set of pre-determined polices for determining a relationship between said first computer entity and said computer entity **(Page 19, [0238]).**

**Regarding claim 11**, Yeager discloses a first computer **(Fig. 11,200)** entity comprising:

a peer to peer networking component **(126)** for allowing said first computer entity to engage other computer entities on a peer to peer basis(**Page 15, [0203], which recites pipes that provide communication channels among peers**); and a network management component **(128)** for enabling-a said first computer entity to participate in management of a peer to peer network (**Page 15, [0203], which recites peer monitoring 128 implement peer management functions**), wherein said network management component is configured to operate operates a process for managing a second computer entity in said peer to peer network (**Page 15, [0203], which recites peer monitoring 128 operates process for managing functions of the peer**), and wherein said ,process utilizes a resource of said first computer when said resource is not being used by a service application at a higher level layer than said peer to peer protocol(**Page 17, [0219] and page 21, [0255], which recites peers invoke network resources services that not being used by any other layer as discloses by the instant application**).

**Regarding claim 12**, Yeager discloses said network management component is activated whenever said peer to peer networking component is operational (**Page 15, [0203]**).

**Regarding claim 13**, Yeager discloses said network management component comprises a program data that controls resources of said peer to peer network to perform a network management service (**Page 4, [0052] – [0054], Page 17, [0219] and page 21, [0255]**).

**Regarding claim 14**, Yeager discloses said network management component applies policy for determining a mode of operation of said first computer entity in relation to said second computer entity **(page 19, [0239])**.

**Regarding claim 15**, Yeager discloses said network management component operates to: communicate with a plurality of other computer entities of said network for sending and receiving policy data concerning an .operational policy towards said second computer entity and determine, from a consideration of policy data received from said other computer entities, a global policy to be adopted by each computer entity in said network, towards said computer entity **(Page 19, [0238] – [0240])**.

**Regarding claim 17**, Yeager discloses a method **(Figs. 1A and 1B)** performed by a first computer entity **(Fig. 11, 200)** having:

a set of computing resources**(120)**; and higher level service **(140)** provided a service application**(Page 15, [0199], which recites a core layer 120 and service layer 140)**, said method comprising:

operating a peer to peer protocol for enabling said first computer entity to a resource of a second computer in a peer to peer network **(Page 16, [0212], page 17, [0214], which recites a peer includes a peer-to-peer application layer 150 that enables resources sharing between peer entities)**, and for enabling said second computer entity to utilize resource of said computer entity**(Page 15, [0203], which recites peer monitoring 128 operates process for managing functions of the peer)**, and operating a process for managing said second computer entity wherein said process



utilizes said set of computing resources(**Page 17, [0219] and page 21, [0255], which recites a peer utilizes resources of other peers** ).

Yeager does not explicitly discloses the process is invoked as a background activity to manage said second computer entity only when said resource of said first computer entity is not being used a service application at a higher layer than said peer to peer protocol .

However, Pabla teaches the process is invoked as a background activity to manage said second computer entity only when said resource of said first computer entity is not being used a service application at a higher layer than said peer to peer protocol (**fig. 13 and fig. 20, Col. 20, lines 44 – 63, which recites the sharing process is invoke for resources at layer level 212 and 214, but does not used for higher level such as 220**).

Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teaching of Pabla with the teaching of Yeager by using the above features such as the process is invoked as a background activity to manage said second computer entity only when said resource of said first computer entity is not being used a service application at a higher layer than said peer to peer protocol for the purpose of providing secure exchange of messages between peers in peer groups (**Abstract**).

**Regarding claim 18**, Yeager discloses the computer entity automatically operates said process for managing at least one other computer entity, in response to

receipt of a service request from at least one of said plurality of computer entities, not including said computer entity itself (**Page 24, [0295]- [0297]**).

**Regarding claims 21-24**, Yeager discloses considering whether said second computer entity allows said first computer entity to utilize said resource of said second computer (**Page 4, [0052] – [0054], Page 17, [0219] and page 21, [0255]**).

1. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over unpatentable over Yeager and Pabla in view of Gleichauf, and further in view of Golle (Incentives for Sharing in Peer-to-Peer Networks, 2001, Computer Science Department, Stanford University).

**Regarding claim 4**, Yeager discloses managing said second computer entity comprises a process selected from the group consisting of: controlling access by said second computer entity to a communal resource stored on said first computer entity (**Page 17, [0219] and page 21, [0255]**),

Yeager doesn't explicitly disclose placing said second computer entity in quarantine; or applying a charge for utilization by said second computer entity of a communal resource.

Gleichauf teaches placing said second computer entity in quarantine (**col. 3, line 63-col. 4, line 11; col. 2, lines 5-10**). However, Gleichauf doesn't teach applying a charge for utilization by said at least one other computer entity of a communal resource.

Golle teaches applying a charge for utilization by said second computer entity of a communal resource (**page 5, lines 36-38, page 1, lines 25-34**).

Therefore, it would have been obvious to one ordinary Skill in the art at the time the invention was made to use the method of placing an infected computer in quarantine and charging a peer or user for using a resource as taught by Gleichauf and Golle, respectively into the peer-to-peer network of Yeager in order to prevent those hackers, which could cause damage, from penetrating a network undetected, and to increase the system's value to its users and so make it more competitive with other commercial P2P systems.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DADY CHERY whose telephone number is (571)270-1207. The examiner can normally be reached on Monday - Thursday 8 am - 4 pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy D. VU can be reached on 571-272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dady Chery/  
Examiner, Art Unit 2461

/Jason E Mattis/  
Primary Examiner, Art Unit 2461